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EXAMINER

PERRIN, JOSEPH L

ART UNIT

PAPER NUMBER

1746

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/918,552

Applicant(s)

KIM ET AL.

Examiner

Joseph Perrin, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 18-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-16 is/are rejected.
- 7) ☒ Claim(s) 1-6, 11-15 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 12 April 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-17, drawn to a washing machine, classified in class 068, subclass 12+.
  - II. Claims 18-23, drawn to a method of controlling, classified in class 008, subclass 158.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by hand.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.
6. During a telephone conversation with applicant's representative, Mr. Robert Bushnell, on 16 June 2003 a provisional election was made with traverse to prosecute

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the invention of Group I, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Priority***

8. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Information Disclosure Statement***

9. It is noted that an Information Disclosure Statement under 37 CFR 1.97 for the present application has not been received by the Office. If Applicant believes this to be in error, Applicant is urged to submit documentation supporting a proper filing of any previously submitted Information Disclosure Statements in order to have such disclosures considered by the Office.

### ***Drawings***

10. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 12 April 2002, has been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

### ***Claim Objections***

11. Claims 1-3, 6 and 11-15 are objected to because of the following informalities:

A single claim which claims both an apparatus and the method steps of using the apparatus (e.g., re claim 1: "accommodating the washing", "heating the washing water", & "circulating the washing water"; re claim 2, "controlling the heater"; re claim 3, "selecting a washing course"; re claim 6, "guiding the washing water" & "transferring the washing water"; re claims 11-13, "adjusting a washing water flow"; and re claims 14-15, "draining out the washing water") is considered improper because this type of claim fails to positively recite the boundaries of protection. If applicant is attempting to describe the structural limitations by the limitations' functions with regard to the apparatus, it is recommended that applicant uses acceptable structural claims language for the claimed apparatus, (e.g. "for accommodating", etc.) and not method steps. However, similar to the claim language as presently claimed, it is noted that this claim language merely describes a future intended use of the apparatus and is given little patentable weight in apparatus claims.

Appropriate correction is required.

12. Claims 4 and 5 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claims are directed to future intended use (e.g. how the heating part is controlled and what washing cycles are selected, respectively) and fail to provide any further structural limitation to the claimed apparatus. Accordingly, the claims have not been further treated on the merits.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1 & 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,927,972 to Kawamura *et al.* (hereinafter "Kawamura").

Kawamura discloses a article treating apparatus including a tank 6, a heater 10 at the below part of the tank, a circulation system including circulation pump 7 between a suction pipe and a discharge pipe wit at least one spray hole, a spray plate with a plurality of holes 5, and wherein the suction pipe may be higher than the height of the heating part (see entire reference of Kawamura, for instance, Figures 1-4 & 7, and col.

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4, line 22 *et seq.*). Kawamura also discloses washing articles with hot water (see, for instance, col. 15, line 11 *et seq.*).

Recitation of Kawamura reads on the present invention, as claimed.

15. Claims 1, 6-7, 9-13 rejected under 35 U.S.C. 102(b) as being anticipated by US 955,993 to Psarski.

Psarski discloses a textile treatment apparatus including a tank, a heater 6 at the bottom of the tank, a circulation system including circulation/drain pump 12, circulation pipes having suction pipes 20/21 and discharge pipe 10 with at least one spray hole (outlet), the suction pipe 20 being higher in height than the heater, a supply pipe 19 with valve connected between a supply source 18 and tank, and a drain pipe 20'/13 and drain valve 20°/14 connected between a water drain source and the tank/suction pipe 20 (see entire reference, for instance, Figure 1, and col. 2, line 105 through col. 5, line 52).

Recitation of Psarski reads on the present invention, as claimed.

### ***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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17. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

18. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

19. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura in view of US 5,603,233 to Erickson *et al.* (hereinafter "Erickson").

Recitation of Kawamura is repeated here from above. Further, Kawamura also discloses a cabinet "accommodating and supporting" the inner tank (see, for instance, Figure 4) but does not expressly disclose a controller or control part intended for controlling washing cycles including heating and circulation.



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Erickson teaches that it is known to provide a textile treatment machine, such as a washing machine, with a controller "to control the operation of certain devices such as pumps, motors, valves, heaters and dispensers related to the machine for washing articles" (see, for instance, col. 5, lines 27-30).

Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the apparatus of Kawamura with the controller of Erickson for the purpose of providing automatic operational control of a textile treatment apparatus.

Moreover, it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. In re Venner, 120 USPQ 192.

20. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura in view of US 5,263,343 to Lee.

Recitation of Kawamura is repeated here from above. Although Kawamura discloses a heater for heating treating liquid to a desired temperature, Kawamura does not expressly disclose providing the tank with an insulating material.

Lee teaches that it is well known in the clothes washing arts to provide a washing tank with heater with an insulating material 23 for the purpose of heat retention in a clothes washing machine (see, for instance, col. 2, line 14-21, and col. 3, lines 1-9).

Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the apparatus of

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Kawamura with the insulating material of Lee for the purpose of improved heat retention in a textile treatment apparatus.

***Allowable Subject Matter***

21. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

22. The following is a statement of reasons for the indication of allowable subject matter:

23. The closest prior art of record fails to teach each and every limitation of the instant invention. Specifically, the closest prior art fails to teach the claimed washing machine further having a lid/cover with pushing projections protruding inward the heating tank for keeping textiles submerged in the tank, which is disclosed as an essential element of claimed invention, as described in claim 17. For at least the foregoing reasons, claim 17 is believed to recite patentable subject matter.

***Conclusion***

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4,231,236 to Tratta *et al.*, which discloses a washing machine with circulation system and heater.

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US 4,103,523 to Plack, which discloses a washing machine with circulation system and heater.

US 2,651,932 to Drum *et al.*, which discloses a washing machine with circulation system.

US 2,314,962 to Wood, which teaches a washing machine with circulation system and cover with protrusions for pressing textiles inward the tank.

US 1,000,251 to Frusher *et al.*, which discloses a washing machine with circulation system and heater.

US 685,910 to De Keukelaere, which discloses a washing machine with circulation system.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Perrin, Ph.D. whose telephone number is (703)305-0626. The examiner can normally be reached on M-F 7:30-5:00, except alternate Fridays.


26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (703)308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

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27. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

Joseph Perrin, Ph.D.  
Examiner  
Art Unit 1746

jlj  
June 30, 2003

A handwritten signature in black ink, appearing to read "Randy Gulakowski". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

RANDY GULAKOWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700